

AMENDMENTS TO LB 645

(Amendments to Standing Committee amendments, AM0316)

1 1. Strike amendment 1 and insert the following new
2 amendment:

3 "1. Strike the original sections and all amendments
4 thereto and insert the following new sections:

5 'Section 1. For purposes of sections 2 to 6 of this act:

6 (1) Broadband services means the offering of a capability
7 for high-speed Broadband telecommunications capability at a speed
8 or bandwidth in excess of two hundred kilobits per second that
9 enables users to originate and receive high-quality voice, data,
10 and video telecommunications using any technology;

11 (2) Internet services means the offering of Internet
12 service provider services, providing voice over Internet protocol
13 services, or providing Internet protocol-based video services;

14 (3) Public power supplier means a public power district,
15 a public power and irrigation district, a municipal electric
16 system, a joint entity formed under the Interlocal Cooperation Act,
17 a joint public agency formed under the Joint Public Agency Act, an
18 agency formed under the Municipal Cooperative Financing Act, or any
19 other governmental entity providing electric service;

20 (4) Telecommunications has the same meaning as
21 telecommunications defined in section 86-117;

22 (5) Telecommunications services has the same meaning as
23 telecommunications service defined in section 86-121; and

1 (6) Video services means the delivery of any subscription
2 video service except those described in section 70-625.

3 Sec. 2. (1) Except as provided in sections 79-1319,
4 81-1120.01 to 81-1120.28, 85-401 to 85-418, 85-1501 to 85-1542, and
5 86-575, an agency or political subdivision of the state shall not:

6 (a) Provide on a retail or wholesale basis any broadband
7 services, Internet services, telecommunications services, or video
8 services;

9 (b) Be issued a certificate of convenience and necessity
10 as a telecommunications common carrier; or

11 (c) Be issued a permit as a telecommunications contract
12 carrier.

13 (2) The provisions of subsection (1) of this section
14 shall not apply to any public power supplier.

15 Sec. 3. A public power supplier shall not provide on a
16 retail basis any broadband services, Internet services,
17 telecommunications services, or video services.

18 Sec. 4. Nothing in sections 1 to 5 of this act shall
19 prohibit or restrict the ability of an agency or political
20 subdivision of the state or a public power supplier from deploying
21 and utilizing broadband services, Internet services,
22 telecommunications services, or video services, for its own use
23 either individually or jointly through the Interlocal Cooperation
24 Act, the Joint Public Agency Act, the Municipal Cooperative
25 Financing Act for the internal use and purposes of the agency,
26 political subdivision, or public power supplier or to carry out the
27 public purposes of the agency, political subdivision, or public

1 power supplier.

2 Sec. 5. (1) Except as otherwise provided in section 3 of
3 this act, nothing in this section shall be construed to restrict or
4 expand any authority of a public power supplier as that authority
5 existed prior to the effective date of this act.

6 (2) Except as otherwise provided in sections 3 and 4 of
7 this act, a public power supplier shall not provide on any basis
8 broadband services, Internet services, telecommunications services,
9 or video services.

10 (3) This section terminates on December 31, 2007.

11 Sec. 6. (1) The Broadband Services Task Force is
12 created. The members shall be appointed as follows:

13 (a) Three members appointed by the Executive Board of the
14 Legislative Council;

15 (b) Three members appointed by the Governor;

16 (c) Three members of the Public Service Commission;

17 (d) Three members of the Nebraska Power Review Board or
18 their designees; and

19 (e) Three members of the Nebraska Information Technology
20 Commission or their designees.

21 (2) Appointments under this section shall be completed
22 within thirty days after the effective date of this act and
23 reported to the Executive Board of the Legislative Council. The
24 chairperson of the executive board shall convene the first meeting
25 of the task force at which time the task force shall select a
26 chairperson.

27 (3) On behalf of the task force, the Executive Board of

1 the Legislative Council may contract for the services of a meeting
2 facilitator and such other assistance as the task force deems
3 necessary within the limits of the funds appropriated. In making
4 its selection of a meeting facilitator, the committees shall
5 consider experience in the areas of telecommunications and public
6 power. Expenses for the task force, if any, shall be within the
7 appropriations to the Nebraska Information Technology Commission.

8 (4) Issues to be studied by the task force shall include,
9 but are not limited to:

10 (a) The implications upon competition of agencies or
11 political subdivisions of the state or public power suppliers
12 offering infrastructure access for broadband services, Internet
13 services, telecommunications services, and video services and
14 private sector investment in networks for the provision of such
15 services;

16 (b) The need and necessity for the provision of wholesale
17 broadband services, Internet services, telecommunications services,
18 or video services by agencies or political subdivisions of the
19 state and public power suppliers;

20 (c) Issues regarding the establishment of fair and
21 equitable requirements for the regulation and taxation of the
22 provision of wholesale broadband services, Internet services,
23 telecommunications services, and video services by agencies or
24 political subdivisions of the state and public power suppliers;

25 (d) An assessment of the extent and availability of
26 public power infrastructure in the state and an evaluation of how
27 such infrastructure could be utilized to enhance the provision of

1 broadband services, Internet services, telecommunications services,
2 and video services to consumers and businesses and the feasibility
3 of using such technology in all regions of the state;

4 (e) A determination of how parity could be established
5 for competing interests in the provision of broadband services,
6 Internet services, telecommunications services, and video services,
7 including, but not limited to, the amount of property taxes paid,
8 income taxes, in lieu of tax payments paid, gross receipts taxes,
9 sales taxes paid, tax credits and funds provided under current
10 federal and state laws, and financing capabilities, including
11 shareholder equity; and

12 (f) An evaluation of the statutory and regulatory
13 frameworks of other states' publicly owned utilities as they relate
14 to providing broadband services, Internet services,
15 telecommunications services, and video services.

16 (5) The task force shall study the issues described in
17 subsection (4) of this section, identify options for resolution of
18 such issues, and make recommendations to the Legislature and the
19 Governor relating to any policy changes the task force deems
20 desirable. The task force shall complete its work by December 1,
21 2006, and submit its report to the Legislature, the Governor, the
22 Natural Resources Committee of the Legislature, and the
23 Transportation and Telecommunications Committee of the Legislature
24 by such date.

25 (6) This section terminates on December 1, 2006.

26 Sec. 7. Section 25-2602.01, Revised Statutes Supplement,
27 2004, is amended to read:

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1 25-2602.01. (a) A written agreement to submit any
2 existing controversy to arbitration is valid, enforceable, and
3 irrevocable except upon such grounds as exist at law or in equity
4 for the revocation of any contract.

5 (b) A provision in a written contract to submit to
6 arbitration any controversy thereafter arising between the parties
7 is valid, enforceable, and irrevocable, except upon such grounds as
8 exist at law or in equity for the revocation of any contract, if
9 the provision is entered into voluntarily and willingly.

10 (c) The Uniform Arbitration Act applies to arbitration
11 agreements between employers and employees or between their
12 respective representatives.

13 (d) Contract provisions agreed to by the parties to a
14 contract control over contrary provisions of the act other than
15 subsections (e) and (f) of this section.

16 (e) Subsections (a) and (b) of this section do not apply
17 to a claim for workers' compensation.

18 (f) Subsection (b) of this section does not apply to:

19 (1) A claim arising out of personal injury based on tort;

20 (2) A claim under the Nebraska Fair Employment Practice
21 Act;

22 (3) Any agreement between parties covered by sections
23 60-1401.01 to 60-1440; and

24 (4) Except as provided in section 44-811, any agreement
25 concerning or relating to an insurance policy other than a contract
26 between insurance companies including a reinsurance contract.

27 (g) When a conflict exists, the Uniform Arbitration Act

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1 shall not apply to the Uniform Act on Interstate Arbitration and
2 Compromise of Death Taxes and sections 44-811, 44-4824, 54-404 to
3 54-406, 60-2701 to 60-2709, and 70-1301 to 70-1329. ~~and 86-588~~
4 ~~to 86-590.~~

5 Sec. 8. Section 86-575, Revised Statutes Supplement,
6 2004, is amended to read:

7 86-575. (1) Any agency or political subdivision of the
8 state may:

9 (a) Own dark fiber;

10 (b) Sell dark fiber pursuant to section 86-576; and

11 (c) Lease dark fiber pursuant to section 86-577.

12 (2) ~~No agency or political subdivision of the state shall~~
13 ~~provide telecommunications services for a fee, except as authorized~~
14 ~~in sections 79-1319, 81-1120.01 to 81-1120.28, 85-401 to 85-418,~~
15 ~~and 85-1501 to 85-1542, or be issued a certificate of convenience~~
16 ~~and necessity as a telecommunications common carrier or a permit as~~
17 ~~a telecommunications contract carrier.~~ Any agency or political
18 subdivision which sells or leases its dark fiber pursuant to
19 sections 86-574 to 86-578 shall not be deemed to be providing
20 telecommunications services ~~for a fee~~ as defined in section 1 of
21 this act.

22 Sec. 9. Original sections 25-2602.01 and 86-575, Revised
23 Statutes Supplement, 2004, are repealed.

24 Sec. 10. The following sections are outright repealed:
25 Sections 86-581 to 86-592, Revised Statutes Supplement, 2004.'."